

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)	Examiner: Yogesh E. Garg
David Verchere)	
)	Art Unit: 3625
)	
Application Serial No. 09/838,133)	Confirmation No: 9529
)	
Filed: April 20, 2001)	Attorney's Docket No. 123041-175050
)	
For: METHOD AND SYSTEM FOR)	
CONFIGURATING PRODUCTS)	
)	
)	

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

DECLARATION OF DAVID VERCHERE UNDER 37 C.F.R. § 1.132

I, David Verchere, hereby declare as follows:

1. I am the inventor of the subject matter described and claimed in the above-identified patent application.
2. I am a citizen of Canada and reside at 351 West 20th Street, Number 4, New York, New York 10011.
3. As the inventor of its subject matter, I am quite knowledgeable as to the specification of the above-identified patent application and the claims presently pending in the application. In preparation for making this declaration, I have reviewed the Decision on Appeal issued September 9, 2008 in which the Board of Patent Appeals and Interferences entered a new ground of rejection for claims 1-5, 7-15 and 17-20, rejecting them as being obvious over U.S. Patent 6,493,677 von Rosen et. al. (von Rosen patent) in view of the teaching of a publication authored

by Bittel, Lester Robert (Ed.), Encyclopedia of Professional Management, ISBN 0-07-005478-9, pp. 739 and 958 (“Bittel”).

4. I have worked in the promotional products industry for twelve years, beginning in 1996 as a commission-based sales person. Over this time, I have gained extensive knowledge and expertise in the marketing and promotional products field from both on-the-job experience and from observing colleagues. As Chief Executive Officer of the Buttonwood Technology Group LLC, I work actively in the field of marketing and promotional products. In my capacity as Buttonwood CEO, I attend trade shows and business conferences in the field of marketing and promotional products and am quite familiar with many persons actively working in the field.

5. Based on my experience, one skilled in the art of marketing and promotional products generally has no formal education. Nor is there any formal training process to work in the field. While some working the field have college degrees, there is no specific degree in particular that is related to promotional products. Instead, the field requires a strong ability to grow and maintain relationships learned from years of on-the-job experience. The only way to enter the industry is to seek employment with an existing business and learn by following around other sales personnel to observe their actions and learn their behavior. Working as a marketing and promotional products broker does not require a business degree nor any formal training or experience in cost accounting, materials management, or supply-chain management. The marketing and promotional products field has no formally defined supply-chain process nor any formally documented business rules.

6. A marketing and promotional product broker’s skills are typically limited to conceptualizing a promotional product based on the desires of the customer or on subjective marketing trends. Their skills exist in understanding the needs of a client and recommending a

particular product that meets a specific need. A marketing and promotional products broker, however, is not responsible for determining the cost of the promotional product based on the various production and distribution costs of the item. Nor does the broker formulate any sort of product identifier for the promotional product.

7. One working in the field of marketing and promotional products is not skilled in the field of cost accounting, which includes establishing budgets, calculating overhead, distributing the costs of production, and conducting a profitability analysis.

8. One working in the field of marketing and promotional products is not skilled in the field of material management, which includes soliciting material suppliers, obtaining price quotes from vendors, conducting quality control of purchasing materials, and determining the end-product price from these and other variables.

9. One working in the field of marketing and promotional products is not skilled in the field of supply chain distribution, which entails fulfilling customer demands through the most efficient use of resources including distribution capacity, inventory, and labor. In addition, supply chain management includes matching demand with supply and doing so with minimal inventory.

10. One working in the field of marketing and promotional products is not skilled in computer software programming or computer hardware systems configuration.

11. Von Rosen discloses a method for creating customized merchandise over a computer network. Von Rosen makes no mention of any mechanism for creating a price for the customized product.

12. Specifically, Von Rosen does not disclose any method for dynamically generating a price of the customized product utilizing various formulas and pricing data based on the item, process, and artwork.

13. Von Rosen does not disclose a method for generating a unique product identifier when the product is ordered, created, or otherwise accessed.
14. Bittel discloses the general business tenet that price must exceed cost over the long run and that there is a need for a good product numbering system.
15. Bittel does not disclose a method for dynamically generating a price of the customized product using various formulas and pricing data based on the item, process, and artwork.
16. Bittel does not disclose or suggest any particular method for a parts numbering system.
17. Bittel was published in 1978 as part of a larger work entitled “Encyclopedia of Professional Management.”
18. A marketing and promotional products broker would not be inclined to refer to Bittel because business management is outside the skill, education, and experience of one having ordinary skill in the field of marketing and promotional products. Furthermore, the “Parts Standardization and Coding” portion of Bittel referred to by the Examiner is under the larger heading of “Materials Management Structure.” A marketing and promotional products broker would not consult this section of Bittel because, as stated before, materials management is beyond the skill, training, and experience of one having ordinary skill in the field of marketing and promotional products.
19. In addition, because Bittel was published over 20 years prior to the date of invention, one having ordinary skill in the art would not be likely to consult a reference of Bittel’s considerable age.
20. A person having ordinary skill in the field of marketing and promotional products would not have the requisite skills in cost accounting, materials management, and supply-chain

management to conceptualize the present invention, nor would they possess the skills in computer hardware and software necessary to devise the present invention.

21. A person having ordinary skill in the field of marketing and promotional products would not be inclined or suggested by the disclosures in Bittel and von Rosen to create and devise the present invention.

22. I further declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that all such willful false statements may jeopardize the validity of the application or any patents issuing thereon.

Date

David Verchere

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11/6/08

Date

A handwritten signature in cursive script, reading "David Verchere", written over a horizontal line.

David Verchere